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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,671	01/28/2004	Dorian Thurston True	42576/282562	3032
23370 7590 11/09/2007 JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			EXAMINER HAWK, NOAH CHANDLER	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 11/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/766,671

Applicant(s)

TRUE ET AL.

Examiner

Noah C. Hawk

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, Claims 1-9 and 11-13 in the reply filed on 9/27/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Applicant is reminded that in the election made on the phone on 5/31/07, the election was *not* traversed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

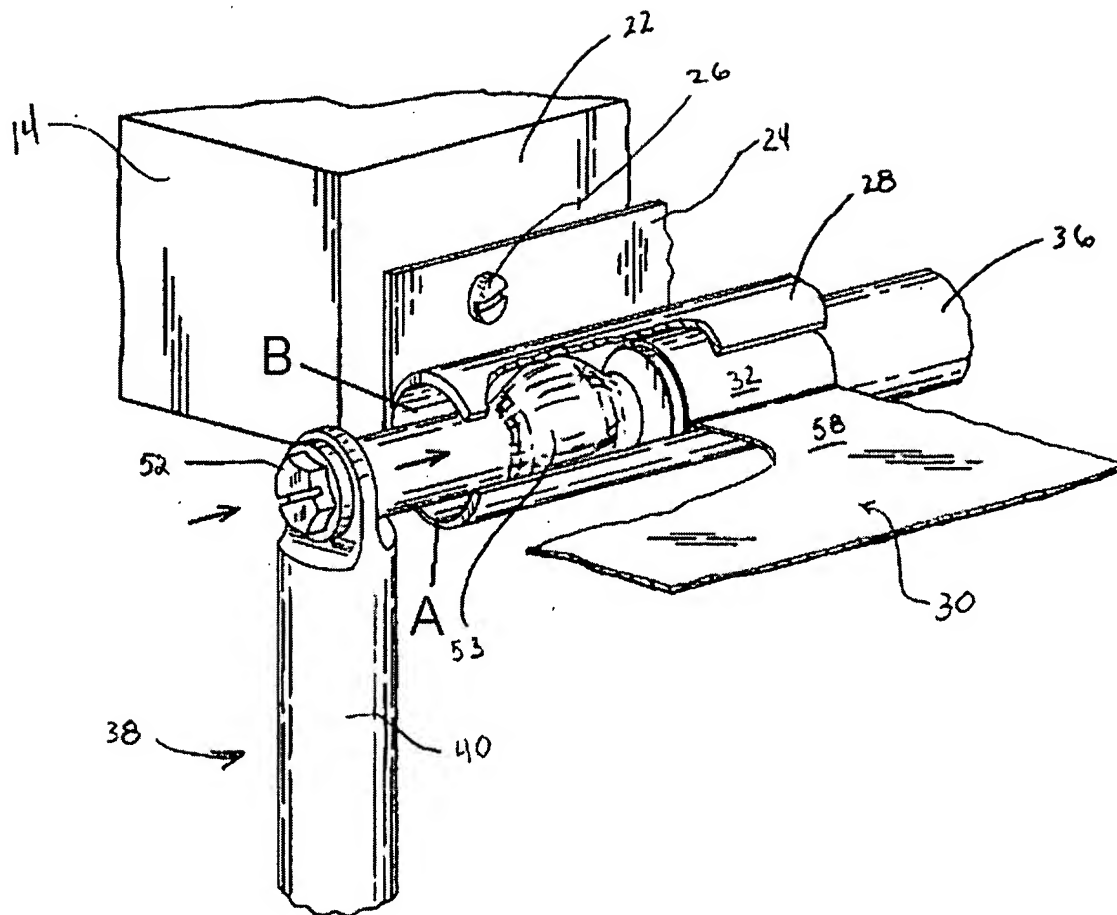
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Peta in US Patent 6227217.

a. Regarding Claim 1, Peta teaches an apparatus for covering the rear of a golf cart, the apparatus comprising a U-shaped stationary frame member (comprising at least 40, 42 and A), a movable frame member (56), and a cover (58), the stationary frame member mounted on the golf cart by brackets (24), the brackets configured to attach to the golf cart at as support frame and roof (the brackets would attach to both the frame and roof if the golf cart was constructed

to have a support frame along the perimeter of the roof), each bracket is configured to be attached in at least two locations (the brackets have multiple mounting holes, best seen in Figure 3) and each bracket (24) is configured to be secured to the golf cart at the support frame and at the roof (the brackets would attach to both the frame and roof if the golf cart was constructed to have a support frame along the perimeter of the roof). Please note: limitations drawn to the golf cart or the combination of the golf cart and apparatus will be given no patentable weight, as the applicant has expressly stated (in Section V of the remarks submitted on 9/27/07) that the claims are directed to the "subcombination of an apparatus..."



Peta, Figure 2

- b. Regarding Claim 3, Peta teaches that the stationary frame member comprises a U-shaped frame having a horizontal portion (A) and two legs (40, 42).
- c. Regarding Claim 4, Peta teaches that the horizontal portion (A) of the frame member is mounted to the brackets (24).

- d. Regarding Claim 5, Peta teaches that the movable frame member comprises a U-shaped frame with a horizontal portion (66) and two legs (70, 72).
- e. Regarding Claim 6, Peta teaches that at least one leg (70) of the movable member mounts to a respective leg (40) of the stationary frame member.
- f. Regarding Claim 7, Peta teaches a retainer bar strip (28) including a channel (B) and a retainer bar (36) wherein a portion of the cover (32) fits within the channel when the retainer bar is positioned within the channel.
- g. Regarding Claim 8, Peta teaches that the cover is sufficiently flexible ("pliable fabric cover 30" see Column 2, line 64) to extend from the retainer bar strip and over a portion of the rear compartment of the golf cart.
- h. Regarding Claim 9, Peta teaches a strap (76) configured to restrain the cover adjacent the stationary frame member.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peta, as applied to Claim 1 above in view of Shugar et al in US Publication 2001/0039960. Peta is silent on the existence of handles on the roof of the golf cart to which his device is mounted. Shugar teaches a golf cart having handles (42, best seen in Figure 2)

proximal the rear edge of the roof of a golf cart. It would have been obvious to one of ordinary skill in the art at the time of invention to use the device of Peta on a golf cart such as the one depicted in Shugar in order to, as Shugar teaches, protect a golf bag during times of inclement weather. A golf cart so modified would necessarily have the brackets secured to the roof near the handles.

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peta in US Patent 6227217 in view of Winkler in US Patent 6601904.

i. Regarding Claim 11, Peta teaches an apparatus for mounting to a golf cart, the apparatus comprising brackets (24) configured to be attached to the support frame and the roof (22), a stationary frame comprising a U-shape frame with a pair of arm tubes (40, 42), and a connecting tube (A) mounted to the rear support frame of the cart, a movable frame comprising a U-shape piece with two arm bars (70, 72), with at least one connected to the stationary frame (Best seen in Figure 3), and a connecting bar (66), the movable frame rotatable over a portion of the rear compartment of the golf cart, a cover retainer strip connected to the stationary frame comprising an elongate strip (28), a channel recess (B), and a cover (58) connected to the retainer strip extending from the channel recess and over the movable frame (Best seen in Figure 1). Please note: limitations drawn to the golf cart or the combination of the golf cart and apparatus will be given no patentable weight, as the applicant has expressly stated (in Section V of the remarks submitted on 9/27/07) that the claims are directed to the "subcombination of an apparatus..." Peta fails to teach that each bracket is

configured to be secured to the support frame, extend toward the front of the cart and be secured to the roof. Winkler teaches a golf cart apparatus mounted to a cart with brackets (84), wherein each bracket is configured to be secured to the frame (see Winkler Column 5, lines 62-63), extend forward (Best seen in Figure 11 and 12), and be secured to the roof of the cart (See Winkler, Column 5, lines 55-56). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Peta by using a bracket such as that taught by Winkler in order to provide a more secure attachment means for the apparatus.

j. Regarding Claim 12, Peta, as modified, teaches a cover retainer bar (36).

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peta, as modified, as applied to Claim 11 above in view of Shugar et al in US Publication 2001/0039960. Peta, as modified, teaches that the brackets mount to the golf cart at an upper portion of a rear support frame (18) but is silent on the existence of handles on the roof of the golf cart to which his device is mounted. Shugar teaches a golf cart having handles (42, best seen in Figure 2) proximal the rear edge of the roof of a golf cart. It would have been obvious to one of ordinary skill in the art at the time of invention to use the device of Peta, as modified, on a golf cart such as the one depicted in Shugar in order to, as Shugar teaches, protect a golf bag during times of inclement weather. A golf cart so modified would necessarily have the brackets mounted to the roof near the handles.

Response to Arguments

8. Applicant's arguments filed 9/27/07 have been fully considered but they are not persuasive.

9. In response to the applicant's arguments regarding the brackets: the use of the Peta apparatus on a different golf cart (which appears to be the intent of the applicant as evidenced by the fact that the claims are directed to the apparatus itself rather than the combination of the apparatus and a specific golf cart), such as the cart shown in Held (US Patent 4830037, disclosed on IDS filed 10/27/04) where the support frame underlies the roof would enable the brackets to be attached to both the support frame and the roof.

10. In response to the applicant's arguments that Peta includes additional structure not required by the applicant's claimed invention, it must be noted that Peta discloses the invention as claimed. The fact that it discloses additional structure not claimed is irrelevant.

11. Applicant's arguments with respect to claim 11 have been considered but are moot in view of the new ground(s) of rejection.

12. Regarding the applicant's arguments with respect to Claims 2 and 13: as is pointed out above, the claims are directed to the apparatus itself rather than the combination of the apparatus and a specific golf cart (Applicant's remarks, paragraph V, "the subcombinations of an apparatus... is being claimed"). Therefore, the application of the apparatus to any golf cart would be reasonable. The use of the Peta apparatus on a cart with a roof such as that disclosed by Shugar would entail mounting the apparatus

on the rear edge of the roof, resulting in a placement of the brackets *near the handles*, since the handles are located near the rear edge of the roof.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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11/5/07


DAVID DUNN
SUPERVISORY PATENT EXAMINER